

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MISSOURI
EASTERN DIVISION

JACKIE REDDEN,)	
)	
Petitioner,)	
)	
v.)	No. 4:08CV1044 TIA
)	
JOAN MORIARTY,)	
)	
Respondent.)	

ORDER AND MEMORANDUM

This matter is before the Court upon the petition of Jackie Redden for a writ of habeas corpus and his application for leave to commence this action without payment of the required filing fee. *See* 28 U.S.C. § 1915(a). Upon consideration of the financial information provided with the application, the Court finds that petitioner is financially unable to pay any portion of the filing fee.

Petitioner, a pre-trial detainee at the St. Louis City Justice Center, seeks a writ of habeas corpus pursuant to 28 U.S.C. § 2244. Liberally construing the petition and supplemental petition, petitioner is challenging the merits of his ongoing state criminal proceeding, in which he apparently has entered a plea of not guilty. Because it does not appear that petitioner is confined pursuant to a state-court judgment, the Court will construe this action as having been brought under 28 U.S.C. § 2241.

In the absence of exceptional circumstances, a state prisoner must exhaust currently available and adequate state remedies before invoking federal habeas corpus jurisdiction. *Braden v. 30th Judicial Circuit Court of Kentucky*, 410 U.S. 484 (1973). State remedies are ordinarily not

considered exhausted if an individual may effectively present his claim to the state courts by any currently available and adequate procedure. Not only will petitioner have the opportunity to raise constitutional challenges in the context of his state criminal proceedings, and if necessary, subsequent appeal, but the State of Missouri provides habeas corpus relief for prisoners in its custody. As such, petitioner has available state procedures that he must exhaust before invoking federal habeas jurisdiction.

Therefore,

IT IS HEREBY ORDERED that petitioner's motion for leave to proceed in forma pauperis [Doc. #2] is **GRANTED**.

IT IS FURTHER ORDERED that no order to show cause shall issue at this time as to respondent, because it appears that petitioner did not exhaust available state remedies before invoking federal habeas corpus jurisdiction.

IT IS FURTHER ORDERED that petitioner shall show cause within thirty (30) days of the date of this Order as to why the Court should not dismiss the instant application for failure to exhaust available state remedies. Petitioner's failure to file a show cause response shall result in the denial of the instant habeas corpus petition and the dismissal of this action, without prejudice.

Dated this 12th day of August, 2008.



HENRY EDWARD AUTREY
UNITED STATES DISTRICT JUDGE